



U.S. Department of Justice

United States Attorney
Southern District of New York

50 Main Street – Suite 1100
White Plains, New York 10606

3/27/23

By ECF & Email

The Honorable Vincent Briccetti
United States District Judge
Southern District of New York
The Hon. Charles L. Brieant Jr.
Federal Building and United States Courthouse
300 Quarropas St.
White Plains, NY 10601-4150

Re: *United States v. Esteban Morales, S1 22 Cr. 485*

Dear Judge Briccetti,

A status conference in the above-referenced matter is presently scheduled for April 18, 2023. For the reasons set forth below, the Government respectfully moves with the consent of all parties for an approximately sixty-day adjournment of the status conference and a corresponding exclusion of time under the Speedy Trial Act. The Government also writes to provide an update to the Court regarding a civil trial writ that has been received for defendant Dayshawn Rivers.

Status Conference Adjournment

As of March 15, 2023, the Government has made three productions of discovery in this matter constituting approximately 1.5 terabytes of data. Those productions have included, among other things, agent reports, video surveillance, jail calls, phone calls and SMS messages captured during the pendency of two Title III wire interceptions, and arrest reports, as well as affidavits for all of the warrants issued in this matter. The Government intends to make one additional production of discovery in the coming weeks constituting primarily warrant returns of cellphones seized on the day of the arrest, additional video surveillance, additional jail calls, and subscriber returns. The Government has conferred with all defense counsel in order to determine whether the parties are in a position to set a motion schedule, including based on the warrant affidavits previously produced. The Government has also been engaging in discussions with some parties regarding potential pretrial dispositions. An approximately sixty-day adjournment will better position the parties to propose a motion schedule and/or further plea negotiations. If the Court grants the adjournment, the Government also respectfully requests an exclusion of time under 18 U.S.C. § 3161(h) from April 18, 2023, to the rescheduled date of the conference. Such an exclusion would serve the interests of

March 24, 2023
APPLICATION GRANTED
SO ORDERED:
Vincent L. Briccetti, U.S.D.J.
Dated: 3/27/23
White Plains, NY
The next conference (which is actually scheduled for 4/17/2023) is adjourned to 6/27/2023 at 2:30 p.m. for the reasons set forth herein, time is excluded under the Speedy Trial Act until 6/27/2023.
Defendant Rivers's request to waive his physical appearance at the 6/27/2023 conference is GRANTED.

and outweigh the best interests of the defendants and the public in a speedy trial because it would allow the parties to continue to review discovery, consider potential motions, and continue to pursue pretrial dispositions.

Trial Writ for Dayshawn Rivers

On or about March 16, 2022, the Government received a writ of habeas corpus ad testificandum for Dayshawn Rivers to be delivered into the custody of the United States Marshals Service (the "Marshals") in the Western District of New York ("WDNY") for a civil trial before the Honorable Frank P. Geraci, Jr. that is scheduled to begin on or about June 5, 2023. (Exhibit A.) The Government understands from the Marshals that, if the Government approves the writ, Mr. Rivers would be placed into the Marshal's Justice Prisoner Alien Transportation System ("JPATS") to be moved to the WDNY. The Marshals have informed the Government that they cannot guarantee how long it would take for Mr. Rivers to be returned using JPATS, but that it could take several weeks.

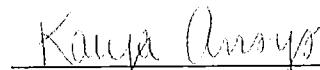
The Government understands from Sean Maher, defense counsel for Mr. Rivers, that the defendant is the plaintiff in a civil rights lawsuit in the WDNY. Mr. Rivers filed the complaint in December 2018 alleging negligence related to medical care he received while an inmate at a facility located in the WDNY between November 2017 to November 2018. On or about October 4, 2022, Judge Geraci denied the civil defendant's motion for summary judgment and subsequently set the trial for June 5, 2023.

Defense counsel for Mr. Rivers has represented to the Government that Mr. Rivers prefers that his civil trial proceed as scheduled and that he therefore requests that the Court allow him to appear telephonically at the next conference or, if necessary, to waive his appearance altogether, in the event that Mr. Rivers's trial or his transport to and from the WDNY conflicts with the next conference in this matter. The Government does not oppose this limited request from Mr. Rivers. If the Court grants Mr. Rivers's request to waive his physical appearance at the next conference (should that be necessary), the Government will approve the writ; if the Court denies his request, the Government will not approve the writ.

Very truly yours,

DAMIAN WILLIAMS
United States Attorney

By:



Kaiya Arroyo/Qais Ghafary
Assistant United States Attorney
(914) 993-1919/1930

Cc: all defense counsel

Exhibit A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DAYSHAWN RIVERS,

Plaintiff,

-vs-

DR. YOUNG SUNG JUN,

Defendants.

ATTEST: A TRUE COPY
U.S. DISTRICT COURT, WDNY
MARY C. LOEWENGUTH, CLERK
By Besa Dugue
Deputy Clerk

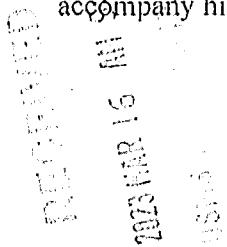
WRIT OF HABEAS CORPUS
AD TESTIFICANDUM

Case # 6:18-CV-6898-FPG

TO: Commissioner, Joseph K. Spano, Westchester County Department of Corrections, 10 Woods Road, Valhalla, NY 10595

CHARLES F. SALINA, United States Marshal for the Western District of New York

You are hereby commanded to produce DAYSHAWN RIVERS, U.S. Marshal Number 31659510, now incarcerated at Westchester County Department of Corrections in Valhalla, New York, before the United States District Court for the Western District of New York at the United States Courthouse, 100 State Street, Rochester, New York on June 5, 2023 at 8:00 A.M. for a trial in this case, and deliver him to the custody of the U.S. Marshals, United States Courthouse, 100 State Street, Room 282, Rochester, New York each day by 8:00 A.M. until the said trial is completed, or as ordered by the Court. Mr. River's legal property relevant to this case shall accompany him to court.

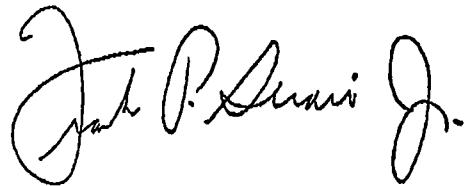


Upon delivery of Mr. Rivers to the custody of the U.S. Marshal each day as required by this Writ, the Marshal shall provide all necessary security and care of Dayshawn Rivers as long as he is present in the U.S. Courthouse.

Immediately upon completion of said trial, Dayshawn Rivers shall be returned to federal custody and transported to Westchester County Department of Corrections in Valhalla, New York by the U.S. Marshal Service.

IT IS SO ORDERED.

Dated: March 15, 2023
Rochester, New York



HON. FRANK P. GERACI JR.
United States District Judge
Western District of New York

The foregoing Writ is issued pursuant to *Rivera v. Santirocco*, 814 F.2d 859 (2d Cir. 1987); 28 U.S.C. §§ 2241, 2243; The All Writs Act, 28 U.S.C. § 1651; 28 U.S.C. § 569(b).